

REMARKS

Claim and Species Restriction

Claims 1-53 and 55-63 were pending and restricted to the following two groups:

Group I: Claims 1-19, 56-63, drawn to a method; or

Group II: Claims 20-53 and 55 drawn to apparatus.

Additionally, the disclosed inventions were also restricted to the following eleven species:

Species A: An air-powered, disposable device shown in Fig. 5

Species B: A device having a drive chamber pre-charged with pressurized gas with the reservoir omitted;

Species C: The nature of the starting process as shown in Fig. 6;

Species D: Device operation occluded when the flow in region e has a Mach number of less than 1;

Species E: The membrane when ruptured has an area substantially identical to the area of the duct section;

Species F: Drive chamber has a larger area than the duct section as shown in Fig. 9;

Species H: Particles are initially located between two membranes as illustrated in Fig. 10A;

Species I: Particles are initially located upstream of membranes;

Species J: Entrainment approach described with reference to Figs. 11A-11E;

Species K: Particle mixing according to Figs. 12A-12C; and

Species L: Figs. 13A-13C.

Claim Amendments

By this Amendment, claims 1, 4, 20 and 24 have been amended and claims 42-53 and 56-63 have been cancelled without prejudice. Claim 54 was previously canceled without prejudice. The amendments to the claims are supported throughout the specification and original claims. Accordingly, no new subject matter has been added. Claims 1-41 and 55 remain pending in the

application.

Applicants note that method claim 1 has been amended to incorporate the limitations of device claim 20. As such, Applicants respectfully submit that claims 1-19 should now be properly joined in Group II along with the device claims.

Claim and Species Election

Applicants hereby elect to prosecute the claims of Group II, claims 1-19 as amended, claims 20-41 (note that claims 42-53 have been canceled herein) and 55, with traverse. With respect to the species election, Applicant hereby elects Species A, with traverse. Applicants submit that all of the elected claims cover a gas-pressurized device with at least claim 20 being generic.

As stated in the MPEP §803, if search and examination of an entire application can be made without serious burden, the examiner must examine the entire application on the merits, even though the entire application includes claims to independent or distinct inventions. It is the Applicants' position that it would not be unduly burdensome to perform a search on all of the claims together in the present application. Accordingly, the Applicants traverse the restriction requirement.

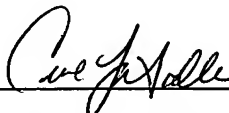
Additionally, Applicants fail to recognize the necessity for the multiple species restriction as many of the separately identified species are not mutually exclusive of each other. For example, it is unclear how the feature of an air powered disposable device (Species A) is mutually exclusive of the device having a drive chamber pre-charged with pressurized gas with the reservoir omitted (Species B), being operated according to the process of Species C, and having membrane and duct sections which have substantially identical areas (Species E). Applicants respectfully suggest that perhaps the Examiner should have considered grouping certain of the species features in sub-species and sub-sub-species categories, and requests that such be considered prior to examination.

The Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected and/or canceled subject matter or any subject matter disclosed in this application during the pendency of this application.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number KEMP-002.

Respectfully submitted,
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